IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7988 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHARTIBEN BHAGWANBHAI PADSALA

Versus

DISTRICT EDUCATION OFFICER

Appearance:

1. Special Civil Application No. 7988 of 2003

MR DC SEJPAL for Petitioner No. 1

MR Prachhak, AGP for Respondent No. 1

..... for Respondent No. 2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 19/06/2003

ORAL JUDGEMENT

The present petition is filed seeking directions from this Court to the respondents to issue correct School Leaving Certificate containing the date of birth as 1.6.1977 instead of 1.6.1975.

2. It is the case of petitioner that the petitioner

studied with the respondent No.2 school. The respondent No.2 issued a certificate, i.e. the School Leaving Certificate on 31.5.1995 bearing No. 1940 in favour of the petitioner wherein the date of birth of the petitioner is registered as 1.6.1975. The petitioner has stated that while getting admitted in the school either through mistake or because of some discrepancy the birth date of the petitioner was entered as 1.6.1977, however as per the record the correct birth date is 1.6.1975. The petitioner has produced the Birth Certificate containing the birth date as 1-6-1975. On the basis of this Certificate of Birth, the petitioner has submitted that the respondent No.2 school may be directed to correct the birth date in the school leaving certificate and a correct School Leaving Certificate may be issued.

3. The petitioner has further submitted that before coming to this Court the petitioner has already approached the respondent No.2 vide letter dated 31.5.2003 along with which the Certificate of Birth was attached and requested the respondent No.2 school that a fresh certificate showing the correct birth date of the petitioner be issued. It is further submitted that the petitioner was in urgency to go to USA and Visa call was also received from USA and for the purpose of taking passport the said certificate was required.

4. This Court has issued the notice on 11th June 2003 making it returnable on 19th June 2003. The respondents are already served. So far as the State Government is concerned, Mr. Prachhak, the learned AGP is appearing in the manner and he submits that looking to the birth date certificate issued by the competent authority, necessary corrections may be made. Nobody appears on behalf of respondent No.2 despite the service of notice. Mr.Sejpal, ld. advocate for the petitioner has drawn my attention to the decision rendered by this Court on 5.10.1999 in Special Civil Application No. 7009 of 1999 wherein this Court has held that "it is just and proper to direct the respondents herein to correct the petitioner's date of birth and to show the same as 27.2.1974 instead of 22.2.1974 in all the relevant records maintained by the respondents and also to direct the concerned secondary and higher secondary schools where the petitioner had undergone the studies in the secondary and higher secondary schools." However, this Court has further observed that "the respondent-authorities themselves are not responsible for the mistake made in the school record and therefore the petitioner was required to be saddled with the costs of this petition which are quantified at Rs.1000 to be paid

to each of respondents nos. 1 to 3".

5. I have heard the learned advocate appearing for the petitioner and the learned AGP for the respondents. I have gone through the facts and record of the case and also perused the decision rendered in Special Civil Application No. 7009 of 1999. Since the facts of the present case being similar and the birth date mentioned in the School Leaving Certificate is sought to be corrected on the basis of Certificate of Birth issued by the competent authority, necessary directions are required to be given in the present matter also to the respondent No.2 School so as to carry out necessary correction in School Leaving Certificate. Accordingly, the respondent No.2 herein are directed to correct the petitioner's date of birth and to show the same as "01.06.1977" instead of "01.06.1975" in the School Leaving Certificate and further directed to issue a correct School Leaving Certificate containing the Date of Birth as "01.06.1977" instead of 01.06.1975, within two weeks from the date of receipt of writ of the order of this Court or from the date of receipt of certified copy of this order whichever is earlier. This Court is, however, of the view that the mistake in issuing the School Leaving Certificate showing the date of birth as 1.6.1975 should not be attributed to the respondents, and hence the petitioner is also required in the present case to be saddled with costs of the petition, which is quantified at Rs.1000 to be paid to each of the two respondents.

6. Subject to the above observations and directions, the petition is disposed of. Direct service is permitted.

rmr. [K.A. Puj, J.]